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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,050	02/26/2002	Stephen Worth Hendrix	8439M	3129

27752 7590 08/14/2003

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EXAMINER

SALVATORE, LYNDIA

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 08/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/083,050	HENDRIX ET AL.	
	Examiner	Art Unit	
	Lynda M Salvatore	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 13-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-12, drawn to a pre-moistened wet wipe classified in class 442, subclass 59+.
 - II. Claims 16 and 17, drawn to method for improving the hand feel of a pre-moistened wet wipe classified in class 427, subclass various.
 - III. Claims 13-15 and 18-20, drawn to a dispensing article of classified in class, 221 subclass various.

2. The inventions are distinct, each from the other because:

Inventions of Group I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process of wetting a non-woven substrate with a composition may be used to make various coated articles such as those used in the medical and cleaning fields (i.e., having anti-microbial properties instead of improved softness and feel).

Inventions of Group II and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions of a method of improving the softness and feel and dispensing article are mutually exclusive

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Inventions of Group I and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. See MPEP § 806.05(d). In the instant case, the pre-moistened wet wipe can be used without the dispensing container for example in a single use package instead of a dispensing container. Further, the container may be used to dispense other wipe materials.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Ian Robinson on August 4th, 2002 a provisional election was made with traverse to prosecute the invention of pre-moistened wet wipe claims 1-12. Affirmation of this election must be made by applicant in replying to this Office action. Claims 13-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

6. Applicant is advised that the reply to this requirement to complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

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Specification

7. The abstract of the disclosure is objected to because of the format. Correction is required.

See MPEP § 608.01(b).

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Applicant is reminded of the proper content of an Abstract of the Disclosure.

Additionally, in chemical patent abstracts for compounds or compositions, the general nature of the compound or composition should be given as well as its use, *e.g.*, "The compounds are of the class of alkyl benzene sulfonyl ureas, useful as oral anti-diabetics." Exemplification of a species could be illustrative of members of the class. For processes, the type reaction, reagents and process conditions should be stated, generally illustrated by a single example unless variations are necessary.

Complete revision of the content of the abstract is required on a separate sheet.

Claim Objections

8. Claim 8 is objected to because of the following informalities: Propylene in line 2 is misspelled. Appropriate correction is required.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-4, 6-9, and 11 are rejected under 35 U.S.C. 102 (b) as being anticipated by Bissett et al., US 5,821,237.

The patent issued to Bissett et al., teaches a skin improving composition comprising at least one cyclic polyanionic polyols, at least one sulfhydryl compound, and at least one zwitterionic surfactant (Abstract). Bissett et al., teaches cyclic polyanionic polyols or derivatives having the structure in which n is 1 or 2 and X is OSO_3^- or OPO_3^{2-} , all non OH X 's are the same and the cation is H^+ , Na^+ , K^+ , or NH_4^+ (Column 6, 15-28). Bissett et al., also teaches neutralizing the compound to a pH ranging between 3 and 8 (Column 6, 31-34). The polyanionic polyol include 1, 2, 3, 4, 5, 6, cyclohexanehexaphosphoric acid (scyllo, myo or other inositol hexakis phosphoric acid derivatives (Column 6, 34- Column 8, 49). The most preferred cyclic polyanionic polyol is myo-inositol hexakis phosphoric acid (Column 8, 49-51). The composition further comprises a zwitterionic surfactant such as long chain betaines and sultaines (Column 10, 41-45). Other surfactants such as anionic, nonionic, amphoteric and ampholytic are also suitable (Column 14, 1-6). Bissett et al., further teaches the inclusion of an acceptable aqueous or organic solvent such as water, propylene glycol, or polyethylene glycol (Column 12, 25-50). With regard to claim 3, the composition generally comprises about .01 % to about 10 % of the polyanionic polyol (Column 12, 13-15). With regard to claim 9, other additives may include preservatives such as zinc (Column 14, 48-61). Bissett et al., teaches that the compositions are useful as cleaners and may be formulated into lotions and creams (Column 13, 40-67). Furthermore, delivery methods include the application of said formulated composition onto the surface of a cleansing pad comprising one or more layers of a non-woven fabric (Column 22, 50-61).

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 4 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bissett et al., US 5,821,237 as applied to claim 1 above, and further in view of Luu et al., US 5,871,763.

Bissett et al., fails to teach a specific non-ionic surfactant but does disclose that surfactants are well known to those skilled in detergency art and are generally selected for their detergency action, mildness to skin, and compatibility with primary additives (Column 14, 6-10). To that end, Luu et al., teaches treating a substrate with a lotion, comprising an emollient, a retention/release agent, and a surfactant (Abstract). Luu et al., specifically teaches selecting a surfactant with a hydrophilic lipophilic balance of less than 8 such as ethoxylated methyl glucoside (Column 9, 1-21). Therefore, motivated by the desire to achieve a balance of properties in the formulated lotion it would have been obvious to one having ordinary skill in the art at the time the invention was made to use the anionic surfactant taught by Luu et al., in the composition of Bissett et al.

With regard to claim 10, Bissett et al., fails to teach the amount applied to the non-woven substrate however, Luu et al., teaches treating the cellulosic substrate with the lotion composition in an amount ranging from .1% to 25% by weight of the dry substrate (Column 13, 35-45). Therefore, motivated to provide a pre-moistened wet wipe it would have been obvious to one

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having ordinary skill in the art at the time the invention was made to employ the teachings of Luu et al., when applying the liquid formulation of Bissett et al., to the non-woven substrate.

13. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bissett et al., US 5,821,237 as applied to claim 1 above.

With regard to claim 12, Bissett et al., does not explicitly teach a method of cleaning a surface with the cleansing pad, however, it is the position of the Examiner that it would be obvious to contact a surface with a cleansing pad, since such is the natural application of the articles described by Bissett et al.

Conclusion

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda M Salvatore whose telephone number is 703-305-4070. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



August 11, 2003



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